

PT 97-19
Tax Type: PROPERTY TAX
Issue: Charitable Ownership/Use

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS

KANKAKEE COUNTY YOUTH)		
INTERVENTION AGENCY, INC.)		
Applicant)		
)	Docket #	94-46-43
v.)		
)	Parcel Index	#19-21-400-008
THE DEPARTMENT OF REVENUE)		
OF THE STATE OF ILLINOIS)		

RECOMMENDATION FOR DISPOSITION

Appearances: Ms. Brenda L. Gorski, Assistant State's Attorney of Kankakee County appeared on behalf of the Kankakee County Board of Review.

Synopsis:

The hearing in this matter was held at 100 West Randolph Street, Chicago, Illinois, on May 9, 1996, to determine whether or not Kankakee County Parcel No. 19-21-400-008 should be exempt from real estate taxation for all or part of the 1994 assessment year.

Mr. John W. Howard, director of the Kankakee County Youth Intervention Agency, Inc. (hereinafter referred to as the "Applicant") was present and testified on behalf of the applicant.

The issues in this matter include, first, whether the applicant owned this parcel for real estate tax purposes during all or part of the 1994 assessment year. The next issue is whether the applicant is a charitable organization. The final issue is whether the applicant used this parcel for primarily

charitable purposes during all or part of the 1994 assessment year. Following the submission of all of the evidence and a review of the record, it is determined that the applicant owned this parcel for real estate tax purposes during the period July 1, 1994, through December 31, 1994. It is further determined that the applicant is a charitable organization. Finally, it is determined that the applicant used this parcel for primarily charitable purposes during the period July 1, 1994, through December 31, 1994.

Findings of Fact:

1. The position of the Illinois Department of Revenue (hereinafter referred to as the "Department") in this matter, namely that this parcel did not qualify for exemption during the 1994 assessment year, was established by the admission in evidence of Department's Exhibits numbered 1 through 5B.

2. The applicant was incorporated on April 6, 1994, pursuant to the General Not For Profit Corporation Act of Illinois. (Appl. Ex. No. 2)

3. The purposes of the applicant, as amended, read as follows:

The corporation is organized exclusively for charitable, educational, religious, or scientific purposes within the meaning of section 501 (c) (3) of the Internal Revenue Code. (Appl. After-filed Ex.)

4. On July 1, 1994, Cole Taylor Bank, as trustee of Trust No.44171, as seller, entered into an Installment Agreement For Deed, with the applicant, as purchaser, concerning the parcel here in issue, consisting of twelve acres. (Dept. Ex. No. 1C)

5. The trust agreement for Cole Taylor Bank Trust No. 44171 states that the beneficiary of that trust is Charles B. Taylor. (Appl. Ex. No. 7) The documents in the record include a notarized statement by Mr. Taylor that the

applicant is current on its payments pursuant to the agreement. (Appl. Ex. No. 7)

6. When the applicant acquired this parcel it contained a burned out block building and two deep water wells. (Tr. p. 10)

7. The applicant proceeded to have the burned out building demolished. The applicant purchased one portable toilet and rented two additional portable toilets and placed them on this parcel. (Tr. p. 11)

8. The applicant also placed two tents, approximately 24 feet by 40 feet each, on the property during that period. (Tr. p. 15)

9. During the period July 1, 1994, through December 31, 1994, the applicant used this parcel by transporting economically deprived children at risk out to this parcel for organized activities including nature walks, berry picking, arts and crafts, games and various other outdoor activities, at no cost. (Tr. pp. 11 & 12, and 23 & 24)

10. Most of the adults who supervised the children when they were involved in activities at this parcel were volunteers. (Tr. pp. 13 & 17)

11. During this period, the applicant transported approximately 50 to 75 children and adults out to this parcel for activities 3 times a week, weather permitting. The activities on this parcel would begin about 11:00 A.M. and last until about 3:30 P.M. (Tr. pp. 22-24)

12. The applicant works with the economically deprived children to help them develop their social and academic skills. (Tr. p. 12) The applicant provides tutoring to the children. (Tr. p. 13)

13. The applicant does community home visits to work with the parents of these children and provide them with assistance in developing housekeeping skills, budgeting skills, and similar types of activities. (Tr. pp. 14 & 15)

14. The applicant also provides mentors and counseling for the children.
(Tr. p. 13)

15. The main office of the applicant is in leased space located at 150 North Schuyler Avenue, Suite 1009, Kankakee, Illinois. The tutoring and counseling of the children takes place primarily at that location. (Tr. pp. 13 & 14)

16. During 1994, the primary source of the applicant's funds was a \$5,000.00 grant received from the Illinois Black United Fund, which was spent on youth activities and transportation. (Tr. pp. 16 & 17)

Conclusions of Law:

Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

35 **ILCS** 200/15-65 provides in part as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

- (a) institutions of public charity;
- (b) beneficent and charitable organizations incorporated in any state of the United States....

It is well settled in Illinois, that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956). Whenever doubt arises, it is to be resolved against exemption and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation,

388 Ill. 363 (1944). Finally, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967).

The applicant was in possession of the parcel here in issue during the period July 1, 1994, through December 31, 1994, pursuant to a contract for deed and was current on its payments to the seller during that period. In the case of Christian Action Ministry v. Department of Local Government Affairs, 74 Ill.2d (1978), the Court held that the ministry, the contract purchaser pursuant to a contract for deed, was the owner of the real estate in question for real estate tax exemption purposes. I therefore conclude that the applicant was the owner of Kankakee County Parcel No. 19-21-400-008 for real estate tax exemption purposes during the period July 1, 1994, through December 31, 1994.

In the case of Methodist Old Peoples Home v. Korzen, 39 Ill.2d 149 (1968), the Illinois Supreme Court laid down six guidelines to be used in determining whether or not an organization is charitable. Those six guidelines read as follows: (1) the benefits derived are for an indefinite number of persons; (2) the organization has no capital, capital stock, or shareholders, and does not profit from the enterprise; (3) funds are derived mainly from private and public charity, and are held in trust for the objects and purposes expressed in its charter; (4) charity is dispensed to all who need and apply for it; (5) no obstacles are placed in the way of those seeking the benefits; and (6) the primary use of the property is for charitable purposes. Based on the foregoing findings of fact, I conclude that the benefits derived are for an indefinite number of persons, namely the economically deprived children at risk, of Kankakee County. In addition, charity is dispensed to all who need and apply for it, and no obstacles are placed in the way of those seeking the benefits.

Since the applicant is an Illinois not-for-profit corporation, I conclude that the applicant has no capital, capital stock, or shareholders, and does not profit from the enterprise. I also conclude that during the period July 1, 1994 through December 31, 1994, the applicant derived its funds from public and private charity and held them in trust for the objects and purposes expressed in its charter. Finally, I conclude that this parcel was primarily used for charitable purposes during the period July 1, 1994, through December 31, 1994.

I therefore recommend that Kankakee County Parcel No. 19-21-400-008 be exempt from real estate taxation for 50% of the 1994 assessment year.

Respectfully Submitted,

George H. Nafziger
Administrative Law Judge
May 8, 1997